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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,883	12/09/2003	John W. Matthews	SF-2	6936
25917	7590	09/15/2005	EXAMINER	
LANGLOTZ PATENT WORKS, INC.			HAN, JASON	
PO BOX 759			ART UNIT	
GENOA, NV 89411			PAPER NUMBER	
			2875	
DATE MAILED: 09/15/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/732,883	Applicant(s) MATTHEWS ET AL. 	
	Examiner Jason M. Han	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Terminal Disclaimer***

1. The terminal disclaimer filed on July 20, 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of December 9, 2003 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Response to Arguments***

2. Applicant's arguments, see Pages 7-10, filed July 4, 2005, with respect to Claims 1-20 have been fully considered and are persuasive. The rejection of claims has been withdrawn.

### ***Claim Objections***

3. Claim 16 is objected to because of the following informalities: Applicant recites in the last limitation, "actuating the switch", which remains indefinite for failure to distinguish between said first or second switch. The examiner has assumed the best-deemed interpretation in the rejection below. Appropriate correction is required.

4. Claim 19 is objected to because of the following informalities: Grammatical error in line 2 of the claim – "to establish a dimmed includes" should read as "to establish a dimmed level" or similarly. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 14-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 14-15 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: "first degree of force" (re: Claim 14) and "second application of force" (re: Claim 15) should be tied in with second switch, or be provided with further structural limitation to elucidate. The examiner has assumed the best-deemed interpretation in the prior art rejection below.

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The following claims have been rejected in light of the specification, but rendered the broadest interpretation as construed by the examiner [MPEP 2111].

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### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

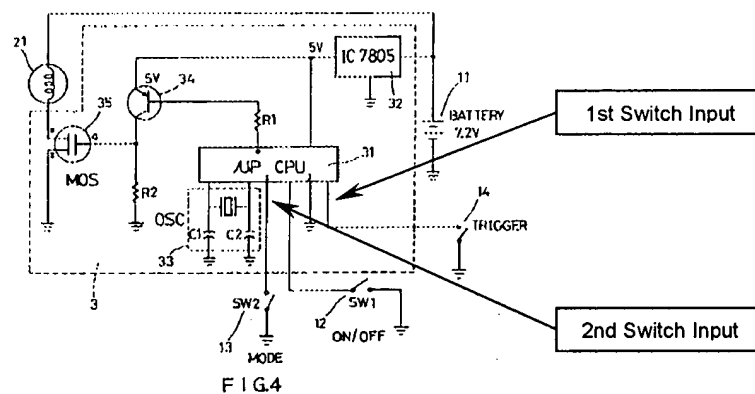
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Ko et al. (U.S. Patent 6307328).

8. With regards to Claim 1, Ko discloses a flashlight including:

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- A lamp [Figures 3-4: (21)];
- A power storage element [Figures 3-4: (11)];
- A first switch [Figures 3-4: (14)];
- A second switch [Figures 3-4: (13)];
- An electronic controller [Figures 3-4: (3)];
- The controller having a first switch input connected to the first switch [Figure 4];
- The controller having a second switch input connected to the second switch [Figure 4];



- The controller being operable in response to actuation of the first switch to deliver power to the lamp [Column 2, Lines 63-66]; and
- The controller being operable in response to a signal received from the second switch to establish a degree of the delivered power, such that the second switch determines a brightness of the lamp [Column 2, Lines 42-56; Claim 1].

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9. With regards to Claim 2, Ko discloses the second switch being operably connected directly to the second switch input, such that it does not intervene between the power storage element and the lamp [Figure 4; note drawing above].

10. With regards to Claim 3, Ko discloses the flashlight having an elongated body with the first switch at a first end, and the lamp at an opposed second end, whereby the second switch is closer to the second end than the first end [Figure 3].

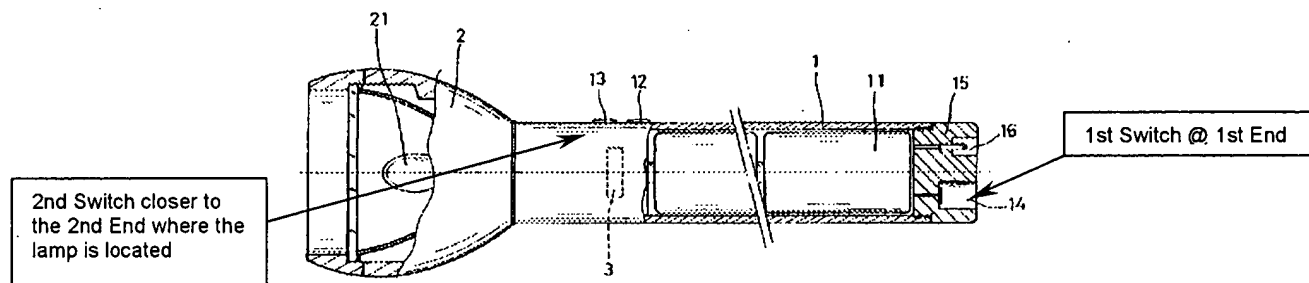


FIG. 3

11. With regards to Claim 13, Ko discloses the flashlight having an elongated housing having the lamp at a first end and the first switch at an opposed second end, and including at least two independent electrical paths between the first and second ends [Figures 3-4; note the drawings above and below].

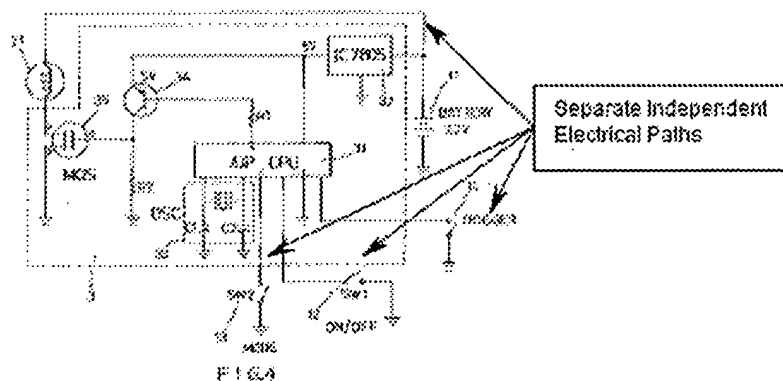


FIG. 4

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 4-9 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ko et al. (U.S. Patent 6307328) as applied to Claim 1 above, and further in view of Coffman (U.S. Patent 4782432).

13. With regards to Claim 4, Ko discloses the claimed invention as cited above, but does not specifically teach the second switch being a ring rotatable about the axis.

Coffman teaches a multi-function flashlight including a switch [Figure 1: (18)] that is a ring rotatable about an axis.

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to modify the second switch of Ko to incorporate the rotatable switch ring of Coffman in order to provide a multifunction switching arrangement that is particularly resistant to corrosion and damage due to water [see Coffman: Column 2, Lines 12-17].

14. With regards to Claim 5, Ko in view of Coffman discloses the claimed invention as cited above, but Ko does not specifically teach the flashlight including a leak-resistant housing defining a chamber, wherein the second switch is positioned outside the chamber.

However, Coffman teaches, "The multi-function light preferably is a portable device formed of a waterproof, cylindrical tubular housing 12 constructed of suitable plastic materials, such as Lexan, or the like [Column 4, Lines 8-11; underline added by examiner for emphasis]", as well as the second switch [Figure 1: (18)] disposed outside a chamber defined by the housing.

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to modify the flashlight of Ko to incorporate the waterproof housing of Coffman to ensure protection for the electrical components within the apparatus.

15. With regard to Claims 6-9 and 11-12, Ko in view of Coffman discloses the claimed invention as cited above.

Ko does not specifically teach the second switch including a sensor component (re: Claim 6), said component being a magnetic field sensor (re: Claim 7), said component being electrically isolated from the second switch (re: Claim 8), said second switch including a magnet (re: Claim 9), nor said switch being moveable through a range of angular positions and the controller being operable to establish the degree of power level based on the absolute position of the switch (re: Claim 11) or a duration of a rotational force applied to the second switch (re: Claim 12).

However, Coffman teaches, "It also is appreciated that, while collar 18 preferably is rotatably mounted on or adjacent front cap 20, this rotatable collar may be located at any desired location along device 10. The magnetic reed switches will, of course, be disposed opposite the magnetic elements mounted on the collar. As an alternative, however, rotatable collar 18 may be replaced by a longitudinal slider on which magnetic



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elements M1 and M2 are mounted; and magnetic reed switches S1 – S4 may be arranged in a linear array beneath this slider and individually actuated by the magnetic elements. As yet another alternative, although two magnetic elements have been proposed, it is appreciated that, if desired, only a single magnetic element may be used together with an additional magnetic reed switch. As a still further embodiment, other proximity sensing devices may be used in place of the magnetic reed switches and magnetic elements described herein. For example, Hall effect devices may be used, although such devices are known, at the present time, to draw current from, for example, battery 38 even in their quiescent modes. Still further, a position detector may be used to sense the angular position of collar 18 (or the longitudinal position of the above-mentioned slider) and to produce a plural bit digital signal representative thereof. This plural bit digital signal may cause the selected energization of a desired one of the above-mentioned functions of light device 10 [Column 13, Lines 34-61].”

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to modify the flashlight of Ko to incorporate the rotatable, magnetic switch of Coffman in order to provide a multifunction switching arrangement that is particularly resistant to corrosion and damage due to water [see Coffman: Column 2, Lines 12-17].

16. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ko et al. (U.S. Patent 6307328) as applied to Claim 1 above, and further in view of Hauck (U.S. Patent 5790013).

Ko discloses the claimed invention as cited above, but does not specifically teach a plurality of different color lamp components.

Hauck teaches a plurality of different color lamp components [Figure 6: (7-9)], wherein a controller [Figure 6: (100)] is operable in response to a signal received from a second switch [Figure 6: (4-6)] to provide a selected power to at least one of the lamp components to provide a selected output color.

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to modify the flashlight of Ko to incorporate the different color lamp components of Hauck in order to provide an aesthetic appeal and greater control with respect to illumination.

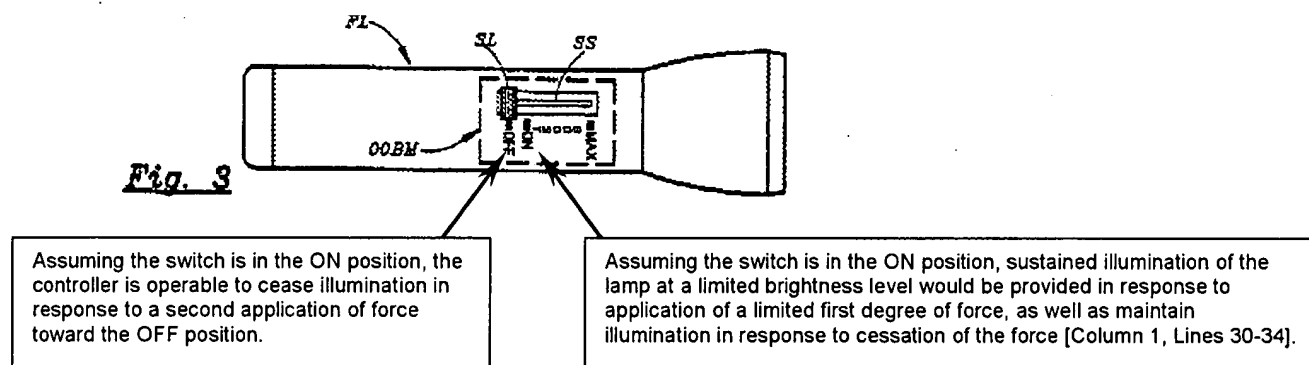
17. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ko et al. (U.S. Patent 6307328) as applied to Claim 1 above, and further in view of Nilssen (U.S. Patent 5498934).

Ko discloses the claimed invention as cited above, but does not specifically teach the controller being operable to provide sustained illumination of the lamp at a limited first brightness level in response to application of a limited first degree of force on the second switch, and to maintain illumination of the lamp in response to cessation of the force (re: Claim 14); nor teaches the controller being operable while providing sustained illumination after cessation of the force to cease illumination to a second application of force on the second switch (re: Claim 15).

Nilssen teaches a manual intensity switch [Figure 1: (SW); Figure 3] operable within a range of conditions and operable to transmit an electrical state corresponding to

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a condition to a controller [Figure 1: (FCM); Column 2, Lines 18-22]; the switch having a plurality of different electrical states in addition to an off state [Figure 3], wherein the electrical state is based on a degree of externally applied force [Column 1, Lines 28-45], whereby sustained illumination of the lamp at a limited brightness level would be provided in response to application of a limited first degree of force on the switch, as well as maintain illumination of the lamp in response to cessation of the force [Figure 3; note below drawing]. Nilssen also teaches the controller being operable while providing sustained illumination after cessation of said first degree of force to cease illumination to a second application of force on the second switch [Figure 3; note below drawing].



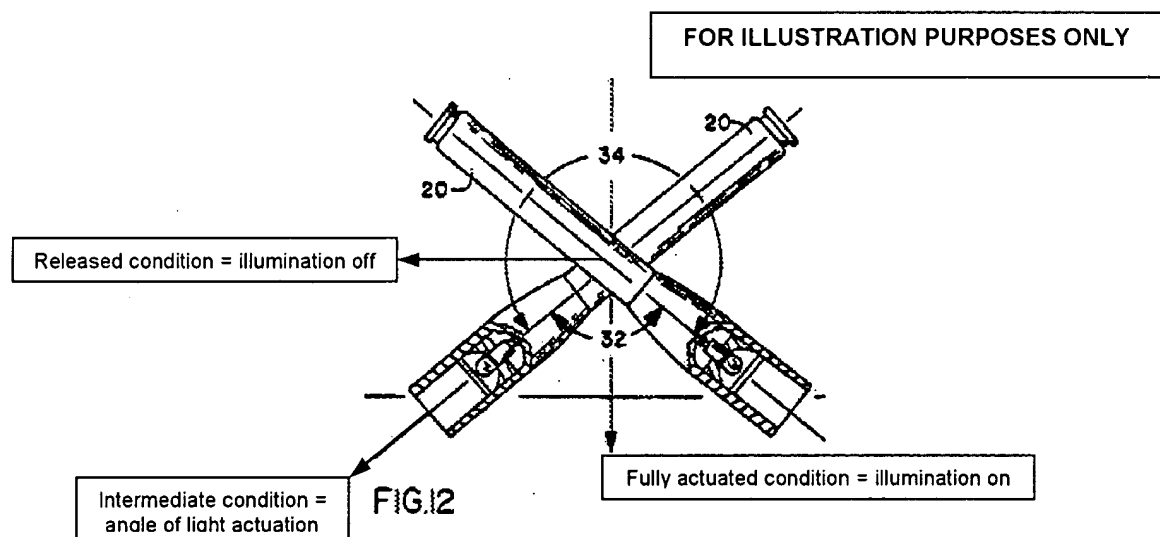
It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the second switch of Ko to incorporate the manual intensity switch of Nilssen in order to provide a user with greater control of the illumination brightness, whereby varying pressures or forces may be applied accordingly to a desired intensity preference. Such a tactile feature permits greater sensitivity to a user, and thus, command of the device.

18. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDermott (U.S. Patent 5161879).

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19. With regards to Claim 16, McDermott discloses a flashlight including:

- A light source with variable light output [Figure 8: (62-64)] up to a maximum output level [Column 4, Lines 11-17];
- A first/gravity switch [Figures 2, 15: (33)] operable through a range of conditions ranging between a released condition and a fully actuated condition, the first switch operable for actuating to an intermediated condition (angle set for turning on/off the illumination) between the released condition and the fully actuated condition [Figure 12]; and



- A second switch [Figures 1-2: (26-27, 30-31)] operating to establish a dimmed level at an output less than the maximum level [Figure 2; Column 6, Lines 25-27], whereby in response to actuating the first switch to an intermediate condition between the released condition and the fully actuated condition [Figure 12 – note drawing above], illuminating the light source at the dimmed level [Column 6, Lines 27-31], and whereby in response to actuating the

switch to the fully actuated condition, the user may illuminate the light source at the maximum level [Column 6, Lines 31-33].

Though McDermott does not specifically teach the method of operating the flashlight, it has been held obvious that one ordinarily skilled in the art at the time of invention could incorporate a method claim of operation given that the prior art substantially teaches and suggests all structural limitations recited within said method.

20. With regards to Claim 17, McDermott discloses the claimed invention as cited above, whereby the second switch establishes a dimmed level according to a selected position via rotation of a semi-circle [Figures 1-2: (27)] encircling the housing portion of the flashlight [Figures 1-2: (25)]. Though McDermott does not specifically teach the switch being an entire ring, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the switch into an entire circle/ring, since it has been held to be within the general skill of a worker that mere change of form or shape of an invention involves only routine skill in the art. *Span-Deck Inc. v. Fab-Con, Inc.* (CA 8, 1982) 215USPQ 835. In this case, providing a circle/ring rather than a semi-circle would provide a greater range or intermediate conditions of dimming for the flashlight.

21. With regards to Claim 18, McDermott discloses the claimed invention as cited above. In addition, McDermott teaches operating the second switch to establish a dimmed level at an output less than the maximum level including applying a rotational force to the second switch for a selected duration, and changing the dimmed level based on the duration [Column 6, Lines 27-33].

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22. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over McDermott (U.S. Patent 5161879) as applied to Claim 16 above, and further in view of Coffman (U.S. Patent 4782432).

McDermott discloses the claimed invention as cited above, but does not specifically teach the flashlight including a leak-resistant housing defining a chamber, wherein operating the second switch to establish a dimmed level includes moving a switch element outside of the housing while maintaining the leak-resistant seal.

However, Coffman teaches, "The multi-function light preferably is a portable device formed of a waterproof, cylindrical tubular housing 12 constructed of suitable plastic materials, such as Lexan, or the like [Column 4, Lines 8-11; underline added by examiner for emphasis]", as well as the second switch [Figure 1: (18)] disposed outside a chamber defined by the housing.

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to modify the flashlight of McDermott to incorporate the waterproof housing of Coffman to ensure protection for the electrical components within the apparatus, which is especially beneficial for covert operations [see Background of the Invention of McDermott].

23. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ko et al. (U.S. Patent 6307328) in view of Hauck (U.S. Patent 5790013).

Since Claim 20 is a method of operation reciting the structural limitations of Claim 10, Nilssen is an obvious teaching over the scope of the present claim. It has been held an obvious matter that when all structural limitations of an apparatus have been

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satisfied by the prior art, one of ordinary skill in the art could construct a method claim for said apparatus.

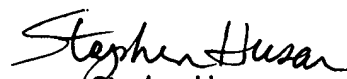
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH (9/13/2005)

  
Stephen Husar  
Primary Examiner